

JUN 13 2001

ATTORNEY DOCKET NO. 044574-5022-2

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

Dario C. ALTIERI

Application No.: 09/690,825

Filed: October 18, 2000

For: SURVIVIN, A PROTEIN THAT INHIBITS
CELLULAR APOPTOSIS AND ITS
MODULATION

Group Art Unit: 1642

Examiner: K. Canella

Assistant Commissioner for Patents
Washington, D.C. 20231

Sir:

RESTRICTION REQUIREMENT FORM

1. Transmitted herewith is a Response to Restriction Request dated May 8, 2001.
2. Additional papers enclosed:
 - ☐ Drawings: ☐ Formal ☐ Informal (Correction)
 - ☐ Information Disclosure Statement
 - ☐ Form PTO-1449, _____ references included
 - ☐ Citations
 - ☐ Declaration of Biological Deposit
 - ☐ Submission of "Sequence Listing", computer readable copy and/or amendment pertaining thereto for biotechnology invention containing nucleotide and/or amino acid sequence.

3. Extension of Time

The proceedings herein are for a patent application and the provisions of 37 C.F.R. § 1.136(a) apply.

☒ Applicant believes that no extension of time is required. However, this conditional petition is being made to provide for the possibility that applicant has inadvertently overlooked the need for a petition and fee for extension of time.

☐ Applicant petitions for an extension of time, the fees for which are set out in 37 CFR § 1.17(a), for the total number of months checked below:

<u>Total Months Requested</u>	<u>Fee for Extension</u>	<u>[Fee for Small Entity]</u>
<input type="checkbox"/> one month	\$ 110.00	\$ 55.00
<input type="checkbox"/> two months	\$ 390.00	\$195.00
<input type="checkbox"/> three months	\$ 890.00	\$445.00
<input type="checkbox"/> four months	\$1,390.00	\$695.00

Extension of time fee due with this request: \$ _____

If an additional extension of time is required, please consider this a Petition therefor.

☐ An extension for ___ months has already been secured and the fee paid therefor of \$ _____ is deducted from the total fee due for the total months of extension now requested.

4. Constructive Petition

☒ **EXCEPT** for issue fees payable under 37 C.F.R. § 1.18, the Commissioner is hereby authorized by this paper to charge any additional fees during the entire pendency of this application including fees due under 37 C.F.R. §' 1.16 and 1.17 which may be required, including any required extension of time fees, or credit any overpayment to Deposit Account 50-0310. This paragraph is intended to be a **CONSTRUCTIVE PETITION FOR EXTENSION OF TIME** in accordance with 37 C.F.R. § 1.136(a)(3).

5. Fee Calculation (37 C.F.R. § 1.16)

CLAIMS AS AMENDED						
	Claims Remaining After Amendment		Highest No. Previously Paid	Present Extra	at Rate of	Total Fees
Total Claims (37 C.F.R. § 1.16(c))	93	Minus	54	39	x \$18 each=	+ \$702.00
Independent Claims (37 C.F.R. § 1.16(b))	24	minus	19	5	x \$80 each=	+ \$400.00
[] First presentation of Multiple dependent claim(s)					\$270.00	+ \$
SUB-TOTAL =						\$1,102.00
Reduction by 2 for filing by a small entity						- \$
TOTAL FEE =						\$ 1,102.00

6. Fee Payment

[X] Check in the amount of \$1,102.00 for additional claims. The Commissioner is hereby authorized to charge any additional extension of time fee or additional fee for claims due to Deposit Account No. 50-0310.

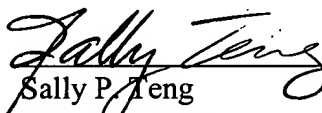
[x] The Commissioner is hereby authorized to charge any additional fees which may be required, including fees due under 37 CFR § 1.16 and 1.17, or credit any overpayment to Deposit Account 50-0310.

Respectfully submitted,

MORGAN, LEWIS & BOCKIUS LLP

Dated: June 8, 2001

By:


Sally P. Teng
Reg. No. 45,397

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RESPONSE TO RESTRICTION REQUIREMENT

This paper responds to the Office Action dated May 8, 2001 (Paper No. 5), time for response to which expires on June 8, 2001. Applicant respectfully submits that the Office Action incorrectly set forth the response period to 30 days. According to § 809.02(a) of the MPEP, a one month (not less than 30 days) shortened statutory period is set for reply to a written requirement made without an action on the merit.

In response to the restriction requirement in the Office Action May 8, 2001, (Paper No. 5), Applicant respectfully elects, without traverse, Group X, claims 17, 18, 39-40.

Prior to examination, please amend the application as follows:

IN THE SPECIFICATION:

Please delete the insert before the first line of the specification, as requested to be inserted by the transmittal of October 8, 2001 (see page 2).

06/11/2001 MABDI1 00000093 09690825

01 FC:102
02 FC:103

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702.00 DP